IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT PETITION NO : 13784 of 2005

Between:

S.K.V.S. High School, Voleru, Bhattiprolu (M) Guntur District,

..... PETITIONER

AND

1. State of A.P., Rep. by its Secretary to Govt. Education Department, Secretariat, Hyderabad.
2. The Commissioner & Director of School Education, A.P. Hyderabad.
3. The Regional Joint Director of School Education, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ Order or Direction more particularly one in the nature of Writ of Mandamus declaring as illegal arbitrary the proceedings of the 3rd Respondent in R.C.No.4058/B1/2004-II dt. 11-4-2005 and issue a consequential direction to the Respondents to forthwith approve the selection made by the petitioner on 19-7-04 from the date of selection by granting arrears of salary etc without reference to ban imposed by the Government in Memo No. 12080/COSE/A2/2004-4 dt. 20-10-2004.

Counsel for the Petitioner: MR.AKA.VENKATARAMANA

Counsel for the Respondents: GP FOR EDUCATION

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the order of the third respondent dated 11.04.2005, under which, the third respondent rejected the proposals sent by the District Educational Officer (D.E.O.), Guntur, seeking approval of the selected candidate for the post of S.G.B.T., on the premise that the Government imposed ban vide Memo dated 20.10.2004.

According to the petitioner, the post of S.G.B.T., fell vacant in the year 2002 due to resignation of the incumbent. Therefore, proposals were sent to the D.E.O., Guntur requesting permission to fill up the said post. The D.E.O., accordingly submitted his remarks vide

proceedings dated 22.01.2004 to the third respondent to grant necessary permission to fill up the post. Thereafter, the third respondent having considered the recommendation of the D.E.O., issued proceedings dated 19.02.2004 granting permission to fill up the post. Hence, the petitioner had taken up the selection process, selected a candidate and on 19.07.2004 forwarded the same to the D.E.O., who inturn forwarded the same to the third respondent for approval on 30.08.2004. The third respondent, however, instead of approving, under impugned proceedings, dated 11.04.2005, rejected the same in the light of the memo issued by the Government banning filling up the aided posts. Now, the grievance of the petitioner is that the post fell vacant in the year 2002 and even permission was also accorded by the authorities for filling up the post long before the ban imposed by the Government. Therefore, the rejection by the third respondent for according permission is illegal and without jurisdiction apart from contrary to the view taken by this Court.

The learned Government Pleader for Education though opposed the contention of the learned counsel for the petitioner, conceded that this Court has been passing orders directing the authorities to approve the appointment, where approving orders were issued for filling up the vacancies before the date of ban imposed by the Government.

Heard both sides and considered the material on record.

Admittedly, the post fell vacant in the year 2002 and permission was granted by the third respondent on 19.02.204 for filling up the same. Thereafter, the selection process was also completed and ultimately the proceedings were forwarded to the D.E.O., who inturn forwarded the same to the third respondent for approval. The third respondent, however, illegally rejected approval on the ground that the ban imposed by the Government vide Memo dated 20.10.2004 would come in the way. As the approval for filling up the post of S.G.B.T., was granted much before the ban, the same would not come in the way for according permission.

Therefore, the impugned order of the third respondent is set aside and the third respondent is directed to reconsider and pass appropriate orders approving the appointment to the post of S.G.B.T., in the petitioner-institution expeditiously, preferably within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

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28.06.2005

Note: Issue CC in two days

(b/o)

VGB

To

1. The Secretary, State of A.P.,. Education Department, Secretariat, Hyderabad.
2. The Commissioner & Director of School Education, A.P. Hyderabad.
3. The Regional Joint Director of School Education, Guntur.
4. 2CCs to the Government Pleader for Education, High Court Buildings, Hyderabad. (OUT)
5. 2CD copies.